

REMARKS

Claims 3, 9, and 16 have been amended. Claims 1-27 are currently pending (claims 25-27 have been withdrawn).

On page 2 of the Office Action, claim 3 was rejected under 35 U.S.C. § 112, second paragraph due to the claim allegedly reciting "said transmitting-terminal." Applicants respectfully submit that the claim language reads, in relevant part, "said transmitting-terminal identification information." Applicants have amended claim 3 to address an antecedent basis issue. Applicants have amended claim 3. Therefore, withdrawal of the rejection is respectfully requested.

Claim 9 was rejected under 35 U.S.C. § 112, second paragraph, due to the phrase, "prompts on the receiving terminals selection of desired merchandise from the merchandise information table." Applicants have amended claim 9. Therefore, withdrawal of the rejection is respectfully requested.

On page 3 of the Office Action, claims 1, 4-8, 10-12, 14, 15, and 17-24 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,216,111 (Walker).

Walker is directed to a system providing a customer with an incentive to call a specific number to listen to the sales presentation, thereby receiving a certain amount of money as a reward. According to Walker, a description of the system is provided on a credit card. According to Walker, the customer must make a call to a specific number to receive a reward.

According to the present invention, a system is disclosed for providing information to a user that a call made is a select-call. Therefore, a customer can choose whether to answer the telephone.

Applicants respectfully submit that independent claim 1, for example, is patentable over Walker, as Walker fails to disclose, "a select-call notification means for notifying a receiving terminal that a call from a calling terminal is a select phone call." For example, a system can be configured so that when a phone call for a select phone call originates from the calling terminal, notification is given beforehand of the point information to be added to the receiving terminal. For instance, a voice message could explain, "this phone call is a select phone call, and 1 point will be added for each minute." The user can then decide whether to answer the phone call.

Although Walker discloses that a customer is given a monetary credit as a reward for listening to a sales presentation, Walker does not disclose information regarding notifying a receiving terminal that a call from a calling terminal is a select phone call.

Therefore, independent claims 1, 20, and 24 are patentable over Walker, as Walker fails to disclose the feature of the present invention identified by the above-quoted language. As dependent claims 2-19 depend from independent claim 1 and dependent claims 21-23 depend from independent claim 20, the dependent claims are patentable over the references for at least the reasons presented for the independent claims.

Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of U.S. Patent No. 5,805,682 (Voit).

As previously explained, the present invention discloses a system providing information to the receiving terminal that the call is a select-call. Therefore, a receiving user can decide whether to receive a reward.

Applicants respectfully submit that independent claim 1, for example, is patentable over Walker in view of Voit, as neither of the references, alone or in combination, discloses or suggests, "a select-call notification means for notifying a receiving terminal that a call from a calling terminal is a select phone call."

As Voit merely discloses a system of displaying identification information of a caller on the handset or the television system, Voit does not add anything of relevance to Walker. Therefore, claims 2 and 3, via independent claim 1, are patentable over the references.

On page 8 of the Office Action, the Examiner stated that claims 9, 13, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of Official Notice.

In particular, the Examiner took Official Notice that, "it is old and well known to offer products in exchange for points and display this information in a chart format while prompting the user to simultaneously make a selection for the desired award as done by frequent flyer program websites.

Applicants respectfully traverse the Examiner's statement and request that the Examiner produce authority for the statement.

Moreover, the Examiner appears to use common knowledge as the principal evidence for the rejection. As explained in M.P.E.P. § 2144.03(E):

any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Further, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the feature is not of notorious character or capable of instant and

unquestionable demonstration as being well-known. Instead, the feature is a part of the uniqueness of the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Further still, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Finally, if the Examiner is basing the assertion on personal knowledge, the Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Thus, Applicant calls upon the Examiner to support such assertion with an affidavit if the Examiner is relying on personal knowledge.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

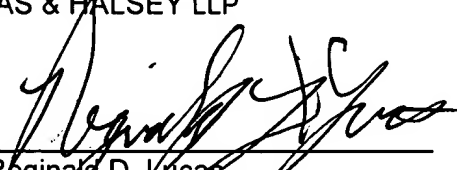
Respectfully submitted,

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12/28/06

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